

SECOND REGULAR SESSION

SENATE BILL NO. 821

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHIELDS.

Pre-filed December 1, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

3127S.01I

AN ACT

To amend chapter 144, RSMo, by adding thereto eight new sections relating to entertainment taxes.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 144, RSMo, is amended by adding thereto eight new sections, to be known as sections 144.1050, 144.1052, 144.1054, 144.1056, 144.1058, 144.1060, 144.1062, and 144.1064, to read as follows:

144.1050. Sections 144.1050 to 144.1064 shall be known and may be cited as the "Adult Entertainment Tax Act".

144.1052. As used in sections 144.1050 to 144.1064, the following terms shall mean:

(1) "Adult entertainment products and services", shall include all of the following:

(a) Any matter that includes actual sexually explicit conduct and is subject to the requirements of Section 2257 of Title 18 of the United States Code; and

(b) Any live performance, characterized by the display of complete nudity, that may include the performance of actual or simulated sexual activities;

(2) "Actual sexually explicit conduct", any of the following actual, but not simulated conduct as defined in Section 2257 of Title 18 of the United States Code:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(b) Bestiality;

(c) Masturbation;

(d) Sadistic or masochistic abuse; or

(e) Lascivious exhibition of the genitals of pubic area of any person;

(3) "Disclosure statement", the statement required under subsection (e) of Section 2257 of Title 18 of the United States Code.

144.1054. In addition to any tax imposed pursuant to this chapter, for the privilege of selling adult entertainment products or services at retail, a tax is hereby imposed upon all retailers at the rate of five percent of the gross receipts from the retail sale in this state on or after January 1, 2005, of all adult entertainment products and services. In the case of any place of business that offers any live performance as described in paragraph (b) of subdivision (1) of section 144.1052, gross receipts of all adult entertainment products or services include all gross receipts of the retailer at that place of business.

144.1056. 1. In addition to any tax imposed pursuant to this chapter, an excise tax is hereby imposed on the storage, use, or other consumption in this state of adult entertainment products and services purchased from any retailer on or after July 1, 2004, for the storage, use, or other consumption in this state, at the rate of five percent of the sales price of those products and services.

2. The tax provided for in this section shall not be imposed upon the storage, use, or other consumption of any adult entertainment product or service that was purchased from a retailer that paid the tax imposed by section 144.1054 with respect to the retail sale of that product or service.

144.1058. The tax imposed by sections 144.1050 to 144.1064 shall not be imposed upon any Internet service provider or commercial on-line service provider carrying or transmitting messages or images described in sections 144.1050 to 144.1064 or performing related activities in providing on-line services.

144.1060. Retailers shall collect the tax required pursuant to sections 144.1054 and 144.1056 on any adult entertainment products or services described in subdivision (1) of section 144.1052 that include or bear the disclosure statement defined in subdivision (3) of section 144.1052.

144.1062. To the extent feasible or practicable, the provisions of this chapter, shall govern determinations, collections of tax, overpayments and refunds, and administration pursuant to this section.

144.1064. The department of revenue shall enforce the provisions of sections 144.1050 to 144.1062 and may promulgate rules and regulations relating to the administration and enforcement of sections 144.1050 to 144.1062. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are

nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

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